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Date: OCTOBER 19, 2005

To: EXAMINER GARY, ERIKA A.
U.S. PATENT AND TRADEMARK OFFICE
Fax #: (571) 273-8300

From: FRANK C. NICHOLAS
Phone #: (847) 424-2521

Client/Matter No.: GP-302115 (2760/56)

of Pages: 21

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Attorney Docket No.	GP-302115 (2780/56)
Application Number	10/082,912
Filing Date	FEBRUARY 26, 2002
First Named Inventor	JEFFREY M. STEFAN
Group Art Unit	2681
Examiner	GARY, ERIKA A

ENCLOSURES (check all that apply)

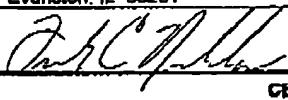
<input type="checkbox"/> Amendment	<input type="checkbox"/> Assignment Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> After Final	<input type="checkbox"/> Drawing Sheets	<input checked="" type="checkbox"/> Appeal Brief
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CALCULATION OF FEE

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Indep.		Minus		0
First Presentation of Multiple Dep. Claim				

Small Entity		or	Large Entity	
Rate	Add'l Fee		Rate	Add'l Fee
x \$25=	0		x \$50=	
x \$100=	0		x \$200=	
+ \$180=	—		+ \$360=	
total add'l fee		\$ 0	total add'l fee	

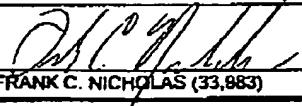
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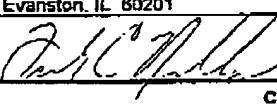
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					Rate	Add'l Fee	Rate	Add'l Fee
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Indep.		Minus		0	x \$100=	0	x \$200=	
First Presentation of Multiple Dep. Claim					+\$180=	—	+\$360=	
					total add'l fee	\$ 0	total add'l fee	\$ 0

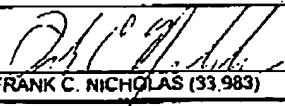
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FRANK C NICHOLAS (33983)
Name of Appellant, assignee or registered representative

Frank C. Nicholas
Signature

October 19, 2005
Date of Signature

PATENT
Case No. GP-302115
(2760/56)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re patent application of:)
)
 JEFFREY M. STEFAN ET AL.)
)
 Serial No.: 10/082,912)
)
 Filed: FEBRUARY 26, 2002)
)
 For: METHOD AND SYSTEM FOR)
 PURCHASING AND)
 REPLENISHING WIRELESS)
 NETWORK CALLING TIME)

Examiner: GARY, ERIKA A.

Group Art Unit: 2681

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

Please consider Appellant's appeal brief as follows.

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1. REAL PARTY IN INTEREST

The real party in interest is Assignee General Motors Corporation, a corporation having an office and a place of business at 300 Renaissance Center, Detroit, Michigan, 48265-3000.

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2. RELATED APPEALS AND INTERFERENCES

Appellant and the undersigned attorneys are not aware of any appeals or any interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

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3. STATUS OF CLAIMS

Claims 1-12 stand rejected as anticipated under 35 U.S.C. §102(e) by United States Patent Application No. 2003/0027549 to Kiel.

Claims 1-12 are the claims on appeal. *See, Appendix.*

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4. STATUS OF AMENDMENTS

All claim amendments have been entered.

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5. SUMMARY OF CLAIMED SUBJECT MATTER

In this summary of claimed subject matter, all citations are to the specification of United States Patent Application 10/082,912. Further, all citations are illustrative only and support for the cited element may be found elsewhere in the specification.

The invention relates to a method for purchasing and replenishing wireless network calling time. The method includes purchasing 210 wireless network calling time through a Web site and saving 220 data encoding the purchased calling time from the Web site to a portable networking device 130. The method further includes transmitting 230 the data encoding the purchased calling time from the portable networking device to an onboard system 141,142. See, e.g. FIGS 1 and 2, pages 7-8 of the specification.

FIG. 1 of the instant application illustrates portable networking device 130 and mobile vehicle 140 including an onboard system that includes a wireless transceiver 141 and a processor 142. A portable networking device 130 contains a wireless transceiver capable of communicating with Internet access device 120 and with an onboard system contained in mobile vehicle 140. (page 5, lines 18-20).

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6. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-12 were rejected as anticipated under 35 U.S.C. §102(e) by United States Patent Application No. 2003/0027549 to Kiel.

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7. ARGUMENTS

A. Kiel does not disclose each element of claims 1-12 so that the anticipation rejection under 35 U.S.C. §102(e) by United States Patent Application No. 2003/0027549 to Kiel should fall.

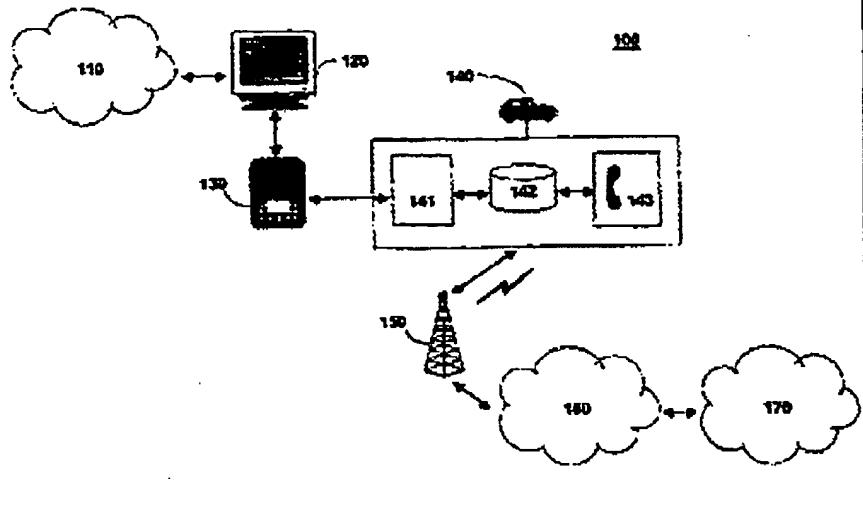
“[F]or anticipation under 35 U.S.C. §102, a single reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.” [MPEP §706.02.] “The identical invention must be shown in as complete detail as is contained in the . . . claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, USPQ2d 1913, 1920 (Fed. Cir. 1989).

With regard to independent claims 1, 5, and 9, at a minimum, Kiel does not disclose “transmitting the data encoding the purchased calling time from *the portable networking device* to an *onboard system*.” (emphases added)

The Examiner confuses two structures – the claimed “portable networking device” and the claimed “onboard system.” FIG. 1 of the instant application illustrates portable networking device 130 and mobile vehicle 140 including an onboard system that includes a wireless transceiver 141 and a processor 142. Portable networking device 130 and onboard system 141/142 are not the same object and are entirely separate devices. Indeed, the specification defines portable networking device 130 as containing a “wireless transceiver capable of communicating with Internet access device 120 and with *an onboard system contained in mobile vehicle 140*.” (page 5, lines 18-20, emphasis added).

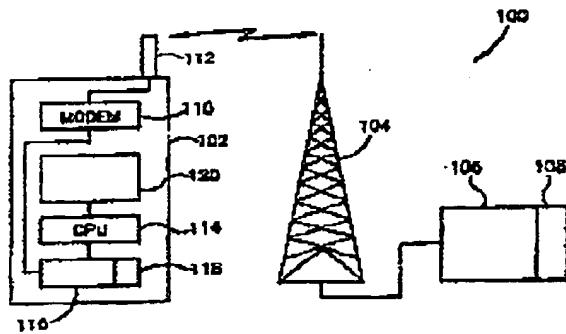
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FIG. 1



To the contrary, Kiel discloses a single device 102 that receives prepaid credit.

Specifically, the client's communication device 102 of Kiel is provided with an activity monitoring unit that holds the client's credit data and applies such credit to permit communication activity by the client through the use of the client's communication device. See, e.g., Abstract of Kiel, and FIG. 1 of Kiel, reproduced below.



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The Examiner indicates that the activity monitoring unit 116 that receives the data encoding purchased calling time is equivalent to the portable networking device, and argues that the client communication device is equivalent to the onboard system. Such a comparison is misplaced, as the devices are not identical or even similar.

For example, the activity monitoring unit 116 is disclosed as a portion of the client communication device 102. In contrast however, the claimed portable networking device 130 does not include any ability to monitor any activity or usage of the encoded purchased calling time – notably, the portable networking device is not the device that will use the purchased calling time.

The Examiner is alleging that subsystems of the client communication device 102 of Kiel are identical to the claimed portable networking device and onboard system. However, these structures are entirely different, as outlined above and illustrated in the figures. Kiel does not even disclose an onboard system as claimed by the instant application.

Furthermore, Kiel teaches away from the desirability of using a portable networking device as an intermediary to an onboard system. In the claimed invention, data encoding the purchased calling time from a web site is saved on a portable networking device, prior to the transmission of the data from the portable networking device to an onboard system. Those of ordinary skill in the art would not be motivated to add an intermediary portable networking device to the system.

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For at least the reasons shown above, Kiel does not teach every aspect of independent claims 1, 5, or 9. Therefore, the rejections of these claims must fall. Withdrawal of the rejections of independent claims 1, 5, and 9 under 35 U.S.C. §102(e) as being anticipated by Kiel is therefore respectfully requested.

B. Dependent claims 2–4, 6–8, and 10–12 were rejected under 35 U.S.C. §102(e) as being anticipated by Kiel et al. (2003/0027549).

Claims 2–4 depend from independent claim 1, claims 6–8 depend from independent claim 5, and claims 10–12 depend from independent claim 9. Therefore, dependent claims 2–4 include all of the elements and limitations of independent claim 1, dependent claims 6–8 include all of the elements and limitations of independent claim 5, and dependent claims 10–12 include all of the elements and limitations of independent claim 9. It is therefore respectfully submitted by Applicants that dependent claims 2–4, 6–8, and 10–12 are allowable for at least the same reasons as set forth herein with respect to independent claims 1, 5, and 9. Withdrawal of the rejections of dependent claims 2–4, 6–8, and 10–12 under 35 U.S.C. §102(e) as being anticipated by Kiel is therefore respectfully requested.

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SUMMARY

The Examiner's rejections of claims 1-12 have been obviated by remarks herein supporting an allowance of pending claims 1-12 over the art of record. The Appellant respectfully submits that claims 1-12 herein fully satisfy the requirements of 35 U.S.C. §§ 102, 103 and 112. In view of the foregoing, favorable consideration and passage to issue of the present application is respectfully requested. If any points remain in issue that may best be resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Dated: October 19, 2005

Respectfully submitted,
JEFFREY M. STEFAN, ET. AL.

GENERAL MOTORS CORPORATION
General Motors Legal Staff
Mail Code 482-C23-B21
300 Renaissance Center
P.O. Box 300
Detroit, MI 58265-3000
Phone: (313) 665-4714

Anthony Luke Simon
Registration No. 34,434
Attorney for Appellant



Frank C. Nicholas
Registration No. 33,983
Attorney for Applicant

CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, Illinois 60201
Phone: (847) 905-7111
Fax: (847) 905-7113

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CLAIMS APPENDIX

1. A method for purchasing and replenishing wireless network calling time, comprising:
 - purchasing wireless network calling time through a Web site;
 - saving data encoding the purchased calling time from the Web site to a portable networking device;
 - transmitting the data encoding the purchased calling time from the portable networking device to an onboard system.
2. The method of claim 1 further comprising:
 - saving an encrypted record of data associated with the purchase within the Web site record structure.
3. The method of claim 1 further comprising:
 - maintaining an updated record of remaining calling time within the onboard system.
4. The method of claim 3 further comprising:
 - notifying the subscriber when less than a specified amount of calling time remains.
5. A computer-readable medium including a program for purchasing and replenishing wireless network calling time, comprising:
 - computer readable code for purchasing wireless network calling time through a Web site;
 - computer readable code for saving data encoding the purchased calling time from the Web site to a portable networking device;
 - computer readable code for transmitting the data encoding the purchased calling time from the portable networking device to an onboard system.

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6. The computer-readable medium of claim 5 further comprising:
computer readable code for saving an encrypted record of data
associated with the purchase within the Web site record structure.
7. The computer-readable medium of claim 5 further comprising:
computer readable code for maintaining an updated record of
remaining calling time within the onboard system.
8. The computer-readable medium of claim 7 further comprising:
computer readable code for notifying the subscriber when less than a
specified amount of calling time remains.
9. A system for purchasing and replenishing wireless network calling
time, comprising:
means for purchasing wireless network calling time through a Web
site;
means for saving data encoding the purchased calling time from the
Web site to a portable networking device;
means for transmitting the data encoding the purchased calling time
from the portable networking device to an onboard system.

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10. The system of claim 9 further comprising:
means for saving an encrypted record of data associated with the purchase within the Web site record structure.
11. The system of claim 9 further comprising:
means for maintaining an updated record of remaining calling time within the onboard system.
12. The system of claim 11 further comprising:
means for notifying the subscriber when less than a specified amount of calling time remains.

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23. A method of providing a wireless service connection for a mobile vehicle, the method comprising:

acquiring a wireless connection with a first wireless carrier obtained from a system identifier table, the system identifier table including a list of wireless carriers, each wireless carrier associated with at least one band;

initiating an acquisition attempt using a channel with the wireless carrier; and

initiating an acquisition attempt using a channel with a second wireless carrier obtained from the system identifier table in response to a rejection from the first wireless carrier.

24. A method of providing a wireless service connection for a mobile vehicle, the method comprising:

loading a connection number for a call center service;

initiating a registration attempt over a first wireless channel using a first band; and

attempting a registration attempt over a second wireless channel using a second band in response to a failed registration attempt.

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Evidence Appendix

None

Related Proceedings Appendix

None.